

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ADAM KRUZELL, individually, and as
Representative of a Class of Participants
and Beneficiaries of the Clean Harbors
Savings and Retirement Plan,

Case No: 1:22-cv-10524-GAO

Plaintiff,

v.

CLEAN HARBORS ENVIRONMENTAL
SERVICES, INC., et al.

Defendants.

**DECLARATION OF PAUL M. SECUNDA IN SUPPORT OF PLAINTIFF’S MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

I, Paul M. Secunda, declare and state as follows:

1. I am a partner at Walcheske & Luzi, LLC (“Walcheske & Luzi”), and am one of the attorneys of record for Plaintiff in the above captioned action. I respectfully submit this declaration in support of the accompanying Motion for Final Approval of Class Action Settlement.

2. As Class Counsel, I conducted substantial investigation and analysis of Plaintiff’s claims, commencing even before the filing of the initial pleading, and, throughout the course of the litigation and settlement efforts, reviewed and analyzed documents pertaining to the Clean Harbor Plan’s administration and Defendants’ fiduciary process, including disclosures made to participants in the Plan.

3. For the reasons stated in my declaration in support of preliminary approval of the Settlement (Dkt. 79), and for the additional reasons set forth herein, I believe that the Settlement

is fair, reasonable, and adequate.

Report of the Independent Fiduciary

4. Pursuant to Prohibited Transaction Exemption 2003-39 (PTE 2003-39) and Section 2.1 of the Settlement Agreement (Dkt. 79-1), an Independent Fiduciary (Gallagher) reviewed the Settlement on behalf of the Plan. As part of this review, the Independent Fiduciary personally discussed the Settlement with me (and separately with defense counsel and the mediator) by telephone, and subsequently issued a report after the review. A true and correct copy of the report is attached hereto as **Exhibit 1**. In the report, the Independent Fiduciary affirmed, among other things, that: “(i) [t]he settlement terms, including the scope of the release of claims; the amount of cash received by the plan; the proposed attorney’s fee award; any non-monetary relief included in the Settlement, and any other sums to be paid from the recoveries, are reasonable in light of the plan’s likelihood of full recovery, the value of claims foregone and the risks and costs of litigation,” *Second Secunda Decl., Ex. 1*, ¶ 3; (ii) [a]fter a thorough review of the pleadings and interviews with the parties’ counsel and the mediator, Gallagher has concluded that an arm’s-length Settlement was achieved after hard-fought negotiations between the parties and is reasonable, given the uncertainties of a larger recovery for the Class at trial. The fee request is also reasonable in light of the effort expended by Plaintiffs’ counsel in the Litigation,” *id.*; (iii) “[t]he Settlement is at least as favorable as an arms-length transaction agreed to by unrelated parties would likely have been,” *id.*, ¶ 4; and (iv) “[a]lthough the transaction will have the incidental effect of releasing the Plan fiduciaries, the Settlement is not designed to benefit those fiduciaries but rather to resolve claims made by Plan participants that have not been fully adjudicated.” *Id.*, ¶ 5.

Reaction of the Class to the Settlement

5. The reaction of the Class to the Settlement also has been overwhelmingly favorable. The period to object to the Settlement pursuant to the Preliminary Approval Order will end on November 21, 2024. See Dkt. 87, ¶ 6. As of the date of this Declaration, there have been no objections to the Settlement from any of the 43,030 Class Members who were sent a Notice of Settlement.

6. Class Counsel have fielded a voluminous number of calls and provided information regarding the Settlement, and no Class member has voiced any opposition to the Settlement.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 13, 2024

s/**Paul M. Secunda**
Paul M. Secunda

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2024, I caused a copy of the foregoing to be electronically filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: November 13, 2024

s/Paul M. Secunda
Paul M. Secunda